

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Cr. No. 18-CR-2945 WJ
)	
JANY LEVEILLE,)	
SIRAJ IBN WAHHAJ,)	
LUCAS MORTON,)	
HUJRAH WAHHAJ, and)	
SUBHANAH WAHHAJ,)	
)	
Defendants.)	

UNITED STATES' MOTION TO CONTINUE *JAMES* HEARING
ON CO-CONSPIRATOR STATEMENTS

The United States of America respectfully requests that the hearing pursuant to *United States v. James*, 590 F.2d 575 (10th Cir. 1979) (hereinafter "*James* hearing"), presently scheduled for Friday, July 7, 2023, be continued to another date in July. In support of this motion, the government states as follows:

1. On October 15, 2019, the United States filed a Sealed Notice of Intent to Introduce Out-of-Court Statements and a Notice of Lodged Appendix. Docs. 156, 157. Thereafter, on February 3, 2023, the Defendants filed an Amended Motion for Production of Alleged Co-Conspirator Statements and For Pre-Trial Hearing on Their Admissibility. The United States responded to the motion, and Defendant Subhanah Wahhaj filed a reply. Docs. 606, 650, 678. On June 2, 2023, the United States filed a Supplemental Sealed Notice of Intent to Introduce

Out-of-Court Statements and a second Notice of Lodged Appendix. Docs. 781, 782.

2. On June 7, 2023, the Court issued a Notice of *James* Hearing on Co-Conspirator Statements, setting the hearing for Friday, July 7, 2023, beginning at 9:00 a.m. Doc. 788.
3. The United States respectfully requests that the hearing be continued to a later date in July because the case agent, who is a necessary witness at the hearing, will be out of the state and unable to appear for the hearing the first week of the month. Moreover, the prosecutors will be out of town earlier that week; undersigned counsel will return to Albuquerque late on Thursday, July 6, 2023, which will make preparation for the hearing difficult, particularly with the agent unavailable. The United States is also aware that some defense counsel have travel plans that week.
4. Counsel for Defendants Jany Leveille, Hujrah Wahhjiah, and Subhanah Wahhaj do not oppose this motion, and counsel for Jany Leveille requests that the hearing be scheduled for July 14, 2023, if possible. Counsel for Subhanah Wahhaj is available if the Court reschedules the *James* hearing for the last week of July, when the *Daubert* hearings are set, but counsel for Jany Leveille would like to have the *James* hearing earlier in the month, if possible. The parties recognize the Court has a busy docket and recognize the difficulty in moving a hearing of this nature.
5. The United States sent an email to stand-by counsel for Defendants Siraj Ibn

Wahhaj and Lucas Morton, but has not spoken with those defendants directly nor heard their position on this motion through the stand-by counsel. Defendants Siraj Ibn Wahhaj and Lucas Morton are presumed to oppose this motion.

WHEREFORE, the United States respectfully requests that the *James* hearing, presently scheduled for Friday, July 7, 2023, be continued.

Respectfully submitted,

ALEXANDER M.M. UBALLEZ
United States Attorney

/S/ Electronically filed
KIMBERLY A. BRAWLEY and
TAVO HALL
Assistant United States Attorneys
P.O. Box 607
Albuquerque, NM 87103
(505) 346-7274

I HEREBY CERTIFY that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification to defense counsel. A copy of this pleading will be mailed to Defendants Siraj Ibn Wahhaj and Lucas Morton.

/S/ Electronically filed
KIMBERLY A. BRAWLEY
Assistant United States Attorney